

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2018

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A.No.1143 of 2018
and CMP.No.9160 of 2018

Tamil Nadu Housing Board,
Rep. By its Chairman & Managing Director,
No.493, Anna Salai, Nandanam,
Chennai-600 035. ... Appellant / 3rd Respondent

Vs.

- 1.Mr.Gerard ...1st Respondent/ Writ Petitioner
2. The Commissioner,
Villivakkam Panchayat Union,
Ambattur, Chennai. ...2nd Respondent/ 1st Respondent
3. The Executive Officer,
Valasaravakkam 3rd Grade Municipality,
Valasaravakkam,
Chennai-600 087. ...3rd Respondent/ 2nd Respondent
4. The Member Secretary,
Chennai Metropolitan Development Authority,
No.8, Gandhi Irwin Road,
Egmore, Chennai-600 008 ..4th Respondent/ 4th Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 03.10.2007 made in W.P.No.28808 of 2007, directing the First Respondent to process the Petitioners Application for planning permission and issue plan for the purpose of the Proposed construction at Plot NO.55 in layout known as Om Shakti Nagar comprised in Survey Nos. 141/1A and 142/6A measuring about 2400 sq.ft in Valasaravakkam Village Ambattur Taluk and Thiruvallur District without insisting upon the no objection certificate.

For Petitioner : Mr.V.Anandamurthy

For Respondents : Mr.D.Ferdinand for R1

JUDGEMENT

(Judgement of the Court was delivered by M.SATHYANARAYANAN, J.)

By consent, this Writ Appeal is taken up for final disposal.

2. The first respondent was working as the Public Relation Officer in the services of Sri Ramachandra Medical College, Porur, Chennai and claims to have purchased a property, bearing Plot No.55 in Layout known as "Om Sakthi Nagar" comprised in S.Nos.141/1A and 142/6A, admeasuring about 2400 sq.ft. From Mr.V.Venkateswaralu, vide registered Sale Deed in Doc.No.6331 of 2004 dated 12.11.2004, registered on the file of the Sub-Registrar Office, Virugambakkam, Chennai. The first respondent/writ petitioner, after purchasing the said land, applied for planning permission and he was insisted to get No Objection Certificate from the Tamil Nadu Housing Board, which said to have acquired lands and taken possession.

3. The first respondent/writ petitioner, aggrieved by the same, filed W.P.No.28808 of 2007 and the said writ petition was disposed of by this Court, vide order dated 03.10.2007, by holding that Section 6 Declaration under the Land Acquisition Act, 1984 [Central Act] was made on 07.06.1978 and an Award in No.6/86 dated 22.09.1986 was also came to be passed on 22.09.1986 i.e., after a period of eight years and therefore, the entire land acquisition proceedings are vitiated and in the light of the said reason, direction was given to the first appellant/first respondent to consider and dispose of the application of the petitioner, seeking planning permission, without insisting upon No Objection Certificate from the Tamil Nadu House Board. The third respondent in the said writ petition, aggrieved by the said order, came forward with this Writ Appeal.

4. Mr.V.Anandamoorthy, learned counsel appearing for the appellant would submit that the Award came to be passed on 22.09.1986 and the lands were taken possession by the Tamil Nadu Housing Board on 21.11.1986 and therefore, No Objection Certificate from the Tamil Nadu Housing Board was rightly insisted upon.

5. Per contra, the learned counsel appearing for the first respondent/writ petitioner would submit that after passing of the impugned order on 03.10.2007, No Objection Certificate was granted and the writ petitioner has also obtained Planning Permission and put up superstructure strictly in accordance with the planning permission/building permit.

6. This Court has considered the rival submissions and also perused the materials placed before it.

7. It is to be noted at this juncture that the impugned order came to be passed on 03.10.2007 and nearly 10 years had lapsed and the present appeal came to be filed with a delay of 4 years and came to be numbered with a delay of 7 years thereafter and as such, nothing remains for further adjudication in this Writ Appeal.

8. In the considered opinion of the Court, there is no error apparent on the face of the record or infirmity in the reasons assigned in the impugned order.

9. In the result, this Writ Appeal is dismissed, confirming the order dated 03.10.2007 made in W.P.No.28808 of 2007. No costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Jvm

To

1. The Commissioner,
Villivakkam Panchayat Union,
Ambattur, Chennai.
2. The Executive Officer,
Valasaravakkam 3rd Grade Municipality,
Valasaravakkam,
Chennai-600 087.
3. The Member Secretary,
Chennai Metropolitan Development Authority,
No.8, Gandhi Irwin Road,
Egmore, Chennai-600 008.

+1cc to Mr.D.Ferdinand, Advocate for
M/s.BFS Legal, S.R.No.83194

+1cc to Mr.V.Anandhamurthy, Advocate, S.R.No.82775

W.A.No.1143 of 2018

KJ(CO)
SSM(04/01/2019)